



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,650	03/04/2002	Barry Bond	MS1-779US	6104

22801 7590 11/27/2007
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

EXAMINER

NGUYEN, CINDY

ART UNIT	PAPER NUMBER
----------	--------------

2161

MAIL DATE	DELIVERY MODE
-----------	---------------

11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/090,650

Applicant(s)

BOND ET AL.

Examiner

Cindy Nguyen

Art Unit

2161

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11/09/07 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

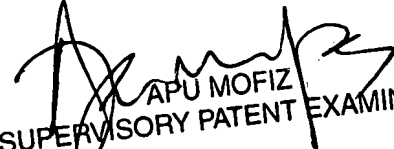
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


APU MOFIZ
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments that Price does not disclose the following as recited in this claim:

investigating information related to the executable image, thereby identifying the format of the executable image, wherein during the investigating an extensible database of executable-image formats is accessed.

based upon the identified format of the image, initiating a loader associated with the identified format.

In the paragraph [0009] of the remark (filed 05/01/07), Applicant stated that " These "images" are typically stored files that are designed to be loaded into the memory of a computer. When control of the processor is passed to an "image" in memory, it executes (or "runs") that image. [Executable images] may be, for example, applications, programs, program modules, program libraries, and the like. A reference herein to loading files expressly refers to loading stored executable images.

Also, in the "Microsoft computer dictionary" fifth edition define that image can be a file, a program or data. Therefore, executable image may be an executable file or executable program...

Further, Price is clearly discloses investigating information related to the executable image, thereby identifying the format of the executable image, wherein during the investigating an extensible database of executable-image formats is accessed (i.e., identifying executable files to be included in the kernel 130 is stressed., file identification involves identifying the different file formats used to distribute kernel software in the computer system 110, the executable files are then isolated by isolating the modules loadable by the kernel 130, col. 5, lines 58-61).

based upon the identified format of the image (i.e., identifying the different file formats used to distribute Kernel software in the computer system, col. 5, lines 58-61), initiating a loader associated with the identified format (loading executables into memory, col. 6, lines 58-59). Applicant's arguments that Price does not disclose the following as recited in this claim: Loading one or more executable image into a computer memory, such an image having one or more formats defined by an extensible database of executable-image formats and executing the one or more executable images that are loaded into the computer memory.

Price clearly disclose the following as recited in this claim: Loading one or more executable image into a computer memory (i.e., loading executables into memory, col. 6, lines 59-60), such an image having one or more formats defined by an extensible database of executable-image formats and executing the one or more executable images that are loaded into the computer memory (i.e., the different file formats used to distribute kernel software in the computer system and the executable files are then isolated by isolating the modules loadable by the kernel, col. 5, lines 58-61).